



**Actuarial & Employer Services Branch**  
P.O. Box 942709  
Sacramento, CA 94229-2709  
Telecommunications Device for the Deaf - (916) 795-3240  
**(888) CalPERS** (or 888-225-7377) FAX (916) 795-1277

December 19, 2006

## **AGENDA ITEM 7**

### **TO: MEMBERS OF THE HEALTH BENEFITS COMMITTEE**

**I. SUBJECT:** Public Hearing and Approval of Regulations  
Regarding Prefunding Plan for Health Care Coverage  
for Annuitants

**II. PROGRAM:** Health Benefits, Actuarial and Employer Services

### **III. RECOMMENDATION:**

Staff recommends that, subject to the results of the public hearing, the Committee recommend the Board adopt the proposed regulations that clarify and make specific existing provisions in the Public Employees' Medical and Hospital Care Act (PEMHCA) concerning administration and investment of the Annuitants' Health Care Coverage Fund and implementation of a plan for the prefunding of health care coverage for annuitants.

### **IV. ANALYSIS:**

At its October 2006 meeting, the Board authorized staff to proceed with regulations that clarify and make specific existing provisions in PEMHCA concerning the Annuitants' Health Care Coverage Fund and the prefunding of health care coverage for annuitants.

The *Notice of Proposed Regulatory Action* was published in the California Regulatory Notice Register (CRNR) 2006, No. 44-Z, November 3, 2006 (see Attachment I). A public hearing has been noticed for December 19, 2006. The written comment period for the proposed regulatory action will close on December 18, 2006. As of the time this agenda item was prepared, no written comments had been received by CalPERS. If comments are received after the

completion of this agenda item, they will be provided to the Committee members prior to the public hearing.

The purpose of the public hearing is to allow the public to present testimony regarding the proposed regulatory action. The Committee is not required to respond to these comments during the hearing; rather, all comments must receive a response from CalPERS as part of the final rulemaking file.

At the conclusion of the public hearing, the proposed regulations, this agenda item, and a summary of any public comments which have been received, will be sent to the Board for consideration. If the Board decides to adopt the proposed regulations, the rulemaking file will be forwarded to the Office of Administrative Law (OAL) for review and approval.

Assuming adoption of the proposed regulations by the Board and prompt filing of the regulations package with the OAL on December 20, 2006, and assuming that the OAL approves the regulations on the 30th working day following receipt, the earliest effective date would be February 5, 2007, if the Secretary of State grants the Board's written request for an early effective date. If there are changes to be made or if the OAL disapproves the regulations, or if the Secretary of State does not grant the request for an early effective date, the effective date will be some time after February 5, 2007.

## **V. STRATEGIC PLAN:**

This item supports Enterprise Goal I: Exercise global leadership to ensure the sustainability of CalPERS pension and health benefit systems.

**VI. RESULTS/COSTS:**

The GASB project team continues to finalize the implementation plan that will allow PEMHCA employers to prefund their retiree health care unfunded liabilities through CalPERS. Minimal if any additional resources will be required in fiscal year 2006/07. For those employers who elect to fully prefund their retiree health care liabilities, thereby utilizing a higher discount rate in their actuarial valuations, the actual cost for those liabilities to the employer/taxpayer can be reduced by 50 percent or more.



---

David Lamoureux,  
Supervising Pension Actuary  
Actuarial Office

---

Terri Westbrook  
Assistant Executive Officer  
Health Benefits Branch



---

Kenneth W. Marzion  
Assistant Executive Officer  
Actuarial & Employer Services Branch

Attachment I

## AGENDA ITEM 7

Public Hearing and Approval of Regulations Regarding  
Prefunding Plan for Health Care Coverage for Annuitants

Attachment 1

## **TITLE 2. California Public Employees' Retirement System**

### **NOTICE OF PROPOSED REGULATORY ACTIONS**

NOTICE IS HEREBY GIVEN that the Board of Administration (Board) of the California Public Employees' Retirement System (CalPERS) proposes to take the action described below in the Informative Digest after considering public comments, objections, or recommendations.

#### **I. PROPOSED REGULATORY ACTION**

In this filing, the Board proposes to amend the Public Employees' Medical and Hospital Care Act Regulations to update the definitions set forth and incorporated by reference at section 599.500 and to add Article 2 titled "Prefunding Plan for Health Care Coverage for Annuitants" which includes new sections 599.550, 599.552, 599.553, and 599.554.

#### **II. WRITTEN COMMENT PERIOD**

Any person interested may submit written comments relevant to the proposed regulatory action. The written comment period closes at 5:00 pm on December 18, 2006. The Regulations Coordinator must receive all written comments by the close of the comment period. Comments may be submitted via fax at (916) 795-4607; e-mail at the following address: [barbara\\_galli@calpers.ca.gov](mailto:barbara_galli@calpers.ca.gov) ; or mail to the following address:

Barbara Galli, Regulations Coordinator  
California Public Employees' Retirement System  
400 Q Street, Room W2580  
P.O. Box 942702  
Sacramento, California 94229-2702

Telephone: (916) 795-4098

#### **III. PUBLIC HEARING**

Comments on the proposed actions will also be taken at a public hearing to be placed on the agenda of the regularly scheduled meeting of the Health Benefits Committee of the CalPERS Board:

December 19, 2006  
9:30 a.m.  
California Public Employees' Retirement System  
Auditorium, 400 Q Street, Sacramento, California 95814

#### IV. ACCESS TO HEARING ROOM

The hearing room will be accessible to persons with mobility impairments, and it can be made accessible to persons with hearing or vision impairments upon advance request to the Regulations Coordinator.

#### V. AUTHORITY AND REFERENCE

The CalPERS Board has authority under the Public Employees' Medical and Hospital Care Act (California Government Code Title 2, Part 5, Chapter 1, Article 2 (PEMHCA)) Section 22796 to adopt all necessary rules and regulations to carry out the provisions of PEMHCA. The CalPERS Board is also charged under PEMHCA at Article 11 (commencing with section 22940) with administering the prefunding of health care coverage for annuitants. CalPERS Board has the sole and exclusive control and power over the administration and investment of the Annuitants' Health Care Coverage Fund. The proposed regulations clarify and make specific statutory provisions in PEMHCA Article 11.

#### VI. INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Legislature recognized a need to establish a means for prefunding retiree health benefits and in 1988 it adopted a law (Stats. 1988, ch. 331) that created the Annuitants' Health Care Coverage Fund for the purpose of prefunding health care coverage for annuitants. This law allows a PEMHCA employer to elect to participate in the prefunding plan. The law provides further that the CalPERS Board has sole and exclusive control and power over the administration and investment of the fund. The Proposed regulations clarify and make specific the current law by defining terms, providing how an employer contracts with CalPERS, providing that CalPERS is to determine the amount of administrative costs and expenses to be paid by each participating employer, and specifying the terms and conditions that must be included in the contract (which include disbursements from the plan, the methodology and assumptions used to calculate the actuarial accrued liability for health care coverage, the method of payments to and disbursements from the plan, the reporting requirements, the method for allocating investment income, the circumstances for transfer of assets into or out of the plan, and the conditions under which the plan may be terminated).

The Governmental Accounting Standards Board Statement No. 45 requires governmental employers to report in their financial statements the estimated costs and liabilities associated with post-employment health benefits for current and future retirees. The Annuitants' Health Care Coverage Fund provide a vehicle for participating employers to contribute an amount to cover some or all of their expected liabilities for health care coverage for annuitants. The Fund would serve the purposes of enhancing security for retirees, providing employers a choice of investment vehicles implementing California Government Code sections 22940 et seq. The proposed regulations provide the administrative

details necessary to implement the Prefunding Plan for Health Care Coverage for Annuitants.

#### Proposed Correction to Title of PEMHCA Regulations

Existing Subchapter 3 refers to the State Employees' Medical and Hospital Care Act Regulations. Government Code section 22750 provides that Part 5 is to be called the Public Employees' Medical and Hospital Care Act. This proposal would change the title of the regulations to conform to the name of the act as set forth in statute.

#### Proposed Amendment of section 599.500

Section 599.500 was adopted in 1979 and has not been amended to reflect changes in code sections and definitions incorporated from PEMHCA into the regulations. This proposal would include the PEMHCA definitions in the regulations by reference to Part 5, instead of to individual code sections.

#### Proposed Addition of Heading and Article Designation

For convenience and ease of reference, existing PEMHCA Regulations are proposed to be placed under new Article 1. Definitions, Coverage, Enrollment, Minimum Standards, and Medicare Part B. The proposed new regulations are proposed to be placed under new Article 2. Prefunding Plan for Health Care Coverage For Annuitants.

#### Proposed Adoption of CCR Section 599.550

PEMHCA Article 11 makes reference to health care coverage for annuitants, to employers that elect to participate, and to a prefunding plan. The CalPERS Board is charged with administering the prefunding plan and investing the Annuitants' Health Care Coverage Fund. In line with its responsibilities of administration, this section defines the terms "health care coverage for annuitants," "participating employer," and "prefunding plan" used in PEMHCA Article 11. Under the proposed definitions, health care coverage for annuitants includes other post employment benefits as that term is defined in the Governmental Accounting Standards Board Statements 43 and 45; participating employer means an employer that elects to participate in the prefunding plan and that also contracts with the CalPERS Board to participate in PEMHCA; and prefunding plan as a Section 115 Trust under the Internal Revenue Code, to administer the plan such that the income to the fund will be exempt from federal income tax.

#### Proposed Adoption of Section 599.552

The law grants the Board the sole and exclusive authority to administer the prefunding plan. This proposed regulation requires that the governing body of a participating employer enter into a contract with the Board, which contract may be in the form of a resolution adopted pursuant to existing PEMHCA provisions.

### Proposed Adoption of Section 599.553

This proposed regulation sets forth the terms and conditions that are to be included in the resolution for prefunding plan participation, including the frequency and amount of contributions to and disbursements from the prefunding plan, the methodology and assumptions used to calculate the actuarial accrued liability for health care coverage for annuitants, the method of payments to and disbursements from the plan, the manner of allocation of investment income to participating employers as well as the allocation of administrative costs and expenses. In addition, this proposed regulation sets forth the circumstances for termination of participation of a participating employer and the order of payment of assets in the event of termination of the prefunding plan.

### Proposed Adoption of Section 599.554

This proposed regulation specifies that the Board will determine the amount of administrative costs and expenses to be paid by each participating employer in accordance with the terms of the resolution filed pursuant to section 22922.

## VII. EFFECT ON SMALL BUSINESS

The proposed regulatory action does not affect small business because it applies only to state, school, and public agency members' voluntary participation in a Prefunding Plan for Health Care Coverage for Annuitants.

## VIII. DISCLOSURES REGARDING THE PROPOSED REGULATORY ACTION

- A. MANDATE ON LOCAL AGENCIES AND SCHOOL DISTRICTS: The proposed regulatory action does not impose a mandate on local agencies or school districts.
- B. COST OR SAVINGS TO ANY STATE AGENCY: The proposed regulatory action does not impact costs or savings for any state agency.
- C. COST TO ANY LOCAL AGENCY OR SCHOOL DISTRICT: The proposed regulatory action does not impact costs or savings for any local agency or school district, such that costs would qualify for reimbursement under Government Code section 17500 et seq.
- D. NONDISCRETIONARY COSTS OR SAVINGS IMPOSED ON LOCAL AGENCIES: The proposed regulatory action does not impose non-discretionary costs or savings on local agencies.
- E. COSTS OR SAVINGS IN FEDERAL FUNDING TO THE STATE: The proposed regulatory action does not impact any federal funding to the state.



- F. ADVERSE ECONOMIC IMPACT: CalPERS has made an initial determination that the proposed regulatory actions will not have a significant statewide adverse economic impact directly affecting businesses including the ability of business in California to compete with business in other states.
- G. COST IMPACT ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES: CalPERS is not aware of any cost impacts that a representative private person, or business would necessarily incur in reasonable compliance with the proposed action.
- H. IMPACT ON JOBS AND BUSINESSES WITHIN CALIFORNIA: The proposed regulatory action will not: (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.
- I. EFFECT ON HOUSING COSTS: The proposed regulatory action has no significant effect on housing costs.

#### IX. CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposed action.

The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation at the above mentioned hearing or during the written comment period.

#### X. CONTACT PERSONS

Please direct inquiries concerning the substance of the proposed regulatory action to:

David Lamoureux  
Actuarial and Employer Services Division  
California Public Employees' Retirement System  
P.O. Box 942709  
Telephone: (916) 341-2473  
Fax: (916) 341-2744  
E-mail: [david\\_lamoureux@calpers.ca.gov](mailto:david_lamoureux@calpers.ca.gov)

Please direct requests concerning processing of this regulatory action to Barbara Galli, CalPERS Regulations Coordinator, at (916) 795-4098 ([barbara\\_galli@calpers.ca.gov](mailto:barbara_galli@calpers.ca.gov)), or Joe Parilo, Manager, Management Services Section, at (916) 795-3484 ([joe\\_parilo@calpers.ca.gov](mailto:joe_parilo@calpers.ca.gov)).

XI. AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The entire rulemaking file is available for public inspection through the Regulations Coordinator at the address shown above. To date the file consists of this notice, the proposed text of the regulation, and the Initial Statement of Reasons (ISR). A copy of the proposed text and the ISR is available at no charge upon telephone or written request to the Regulations Coordinator.

The Final Statement of Reasons can be obtained, once it has been prepared, by written request to Barbara Galli, Regulations Coordinator, at the address shown in Section II.

XII. AVAILABILITY OF MODIFICATIONS TO PROPOSED AMENDMENT

The Board may, on its own motion or at the recommendation of any interested person, modify the proposed amendment to the regulation after the public comment period has closed. It may amend CCR sections 599.500, 599.550, 599.552, 599.553, or 599.554 as modified if the changes are sufficiently related to the original text so the public could have anticipated them.

If the Board modifies its regulatory action in this manner, it will prepare a comparison of the original proposed text and the modifications for an additional public comment period of not less than 15 days prior to the date on which the Board adopts, amends or repeals the resulting regulation. A copy of the comparison text will be mailed to all persons who submitted written comments, who testified or submitted written comments at the public hearing, or asked to be kept informed as to the outcome of this regulatory action.

XIII. One can access the regulatory material regarding this action at [www.calpers.ca.gov](http://www.calpers.ca.gov) ; About CalPERS; Legislation, Regulations and Statutes; Regulatory Actions; Current Regulatory Actions.